IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3788 OF 2004

IN

SUIT NO.3591 OF 2004

1. Shavo Norgren (I) Pvt. Ltd. & others. ... Plaintiffs.

vs.

IMI Norgren Inc. .... Defendant.

Ms. Mehta i/b. Malvi Ranchoddas & co. for Plaintiffs.

Mr.Shekhar S. Shetye i/b. Gajaria & Co., for Defendant.

CORAM: D.K.DESHMUKH,J.

DATED: 13th January, 2006

P.C.:-

1. This is a notice of motion taken out by the plaintiffs. The suit of the plaintiffs is for decree of specific performance of the agreement contained in the letters dated 15.1.2004 and 14.2.2004 at Exhibit J & Exhibit K to the plaint. The defendant is a company incorporated in United States of America who holds 24% shares in the

plaintiff no.1 Company. The defendant made an offer to the Managing Director of plaintiff no.1 company to sell their shares in the company subject to the condition that the word "Norgren" be removed from the company's name and/or from article of the promotional material, after the shares are transferred by the defendant. By letter dated 24.12.2003, the defendant was informed by the Managing Director of plaintiff no.1 that the offer is conditional and it cannot be accepted. The defendant thereafter by communication dated 15.1.2004 agreed to delete his condition of deleting the word "Norgren" from the Company's name and/or from article of promotional material. This offer was accepted by the plaintiffs. The Bord resolution was passed. Thereafter, there was correspondence between the parties about obtaining permission from the Reserve Bank of India for effecting transfer of the shares. The permission was also duly obtained. It is thereafter, the defendant had again changed its mind and by letter dated 15.9.2004 it was stated that after the shares are transferred the word "Norgren" shall have to be deleted from the Company's name. Thus, the defendant resiled from the agreement that was entered into. Hence, the present suit has been filed.

2. The defendant has been served. The defendant is appearing through a lawyer. No reply has been filed. It is clear from the correspondence on record that there was a clear agreement

between the parties for transfer of shares of the defendant in favour of the plaintiffs and it was clearly understood that after the transfer of shares, the plaintiffs to continue to have word "Norgren" in the name of the Company. Without there being any justification now the defendant is resiling from that contract. In my opinion, the plaintiffs have strong prima facie case. The plaintiffs are praying for temporary injunction restraining defendant from transferring shares to anybody else. In my opinion, if temporary injunction is not granted it will create complication in as much as third party right may be created by the defendant. Therefore, in my opinion, the balance of convenience is also in favour of the plaintiffs. If third party interests are created by the defendant, the plaintiffs may suffer irreparable loss. In the result therefore, the notice of motion is granted in terms of prayer clause (b). The notice of motion is disposed of.